

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44210

STATE OF IDAHO, ) 2016 Unpublished Opinion No. 780  
 )  
Plaintiff-Respondent, ) Filed: November 18, 2016  
 )  
v. ) Stephen W. Kenyon, Clerk  
 )  
PATRICK ADAM THOMETZ, ) THIS IS AN UNPUBLISHED  
 ) OPINION AND SHALL NOT  
Defendant-Appellant. ) BE CITED AS AUTHORITY  
 )  
\_\_\_\_\_ )

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Minidoka County. Hon. Michael R. Crabtree, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, Interim State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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Before MELANSON, Chief Judge; GRATTON, Judge;  
and HUSKEY, Judge  
\_\_\_\_\_

PER CURIAM

Patrick Adam Thometz pled guilty to grand theft. I.C. §§ 18-2403(1) and 18-2407(1)(b)(8). In exchange for his guilty plea, additional charges were dismissed including an allegation that he was a persistent violator. The district court sentenced Thometz to a unified term of five years, with a minimum period of confinement of two years. The district court ordered that Thometz's sentence run concurrent with two unrelated sentences. The district court retained jurisdiction and sent Thometz to participate in the rider program. Following successful completion of his rider, the district court suspended the sentence and placed Thometz on probation. Thereafter, Thometz admitted to violating the terms of his probation. The district

court revoked probation, ordered execution of Thometz's original sentence, and again retained jurisdiction. Thometz filed an I.C.R 35 motion, which the district court denied. Thometz filed a motion for reconsideration of the denial of his Rule 35 motion and requested that the district court relinquish jurisdiction. The district court treated Thometz's motion as an amended Rule 35 motion, denied the motion, and relinquished jurisdiction. Thometz appeals.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including any new information submitted with Thometz's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Thometz's Rule 35 motion is affirmed.